



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,190	11/21/2003	Anthony F. Patroni	PAT 10100	3238

25306 7590 05/19/2004

LAW OFFICES OF RAYMOND A. NUZZO, LLC
579 THOMPSON AVENUE
EAST HAVEN, CT 06512

EXAMINER

LAYNO, BENJAMIN

ART UNIT PAPER NUMBER

3712

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,190

Applicant(s)

PATRONI ET AL.

Examiner

Benjamin H. Layno

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5 and 9-14 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 6-8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Weiss.

The patent to Weiss discloses a method of playing a modified blackjack game. The game comprises a standard set of playing cards, each card having a specific numeric value, col. 4, lines 40-47. To play Weiss game a player places a wager 18. An initial hand of two cards are dealt to the player, both player's cards are face up, and one of the dealer's cards is face down 22. The player then declares the player's hand either as a draw poker hand or a modified blackjack hand, col. 4, lines 33-34, and see flow chart Fig. 1. If the player declares draw poker, the dealer deals three additional cards to the player's hand to enable the player to form a complete poker hand, col. 4, lines 48-53, and see flow chart Fig. 1. The player is awarded winnings based on the wager and a first payout schedule, Fig. 4, if the player's poker hand matches any one of the plurality of predetermined poker hands, col. 4, lines 54-63. The player forfeits his or her wager and withdraws from play if the player fails to achieve a winning poker hand, see last line of the first payout schedule, Fig. 4.

Art Unit: 3712

In Weiss game, if the player declares his or her initial hand as a modified blackjack hand, the player determines the total numeric value of the player's initial hand equals a first predetermined number "Natural 21", see flow chart Fig. 1. The dealer determines if the total numeric value of the dealer's initial hand equals the first predetermined number "Natural 21", see flow chart Fig. 1. If the numeric value of the player's initial hand equals Natural 21, and the numeric total of the dealer's hand does not, the player is paid winnings, col. 3, lines 51-59. The player is dealt additional cards upon request, and if the player's hand exceeds "21" the player forfeits his or her wager and withdraws from play, col. 4, lines 12-20, see flow chart Fig. 1. The dealer is dealt additional cards as long as the total numeric value of the dealer's hand is less than a second predetermined number, established protocol sixteen or less, and the dealer is required to hold as soon as the total numeric value of the dealer's hand is equal to or exceeds second predetermined number, sixteen or less, col. 4, lines 22-29. If the player has a winning hand, the player is paid winnings based on the wager and second payout schedule.

In regard to claim 9, Weiss' set of playing cards includes a least one Joker, col. 5, lines 1-4.

3. Claims 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoseloff.

The patent to Yoseloff discloses a method of playing a card game. Playing cards are provided. To play Yoseloff's game, a player places a wager 10 to play a first card game 12. In the first card game, the player and the dealer are dealt cards, col. 8, lines

11-12. If the player loses the first card game, the player forfeits the wager and withdraws from play, col. 8, lines 16-19. If the player wins the first card game, the player is paid winnings, col. 8, lines 21-24. The first card game may be "blackjack", col. 3, lines 60-62. The player is then provided the opportunity to play a second card game 22. The second card game may be a "high-low" game, col. 3, lines 65-67. If the winning player decides to play the "high-low" card game, the player may place a wager risking the amount won (e.g. full amount, double or nothing), col. 1, lines 52-56. Then the "high-low" card game is played.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss as applied to claims 1 and 10 above, and further in view of Yoseloff.

In view of Yoseloff's teaching of providing a second card game, high-low, to a winning player, it would have been obvious to a person having ordinary skill in the art to incorporate a second card game to Weiss' game. A winning player in Weiss game would have been provided the opportunity to play a second card game, "high-low" by wagering the full amount won in the first card game. This modification would have given

players the opportunity to increase their winning, thus making Weiss game more exciting to play.

Allowable Subject Matter

6. Claims 3, 4 and 6-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

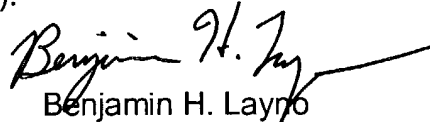
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Campbell discloses a blackjack/poker card game wherein the object is to reach 31, after the blackjack game is played the same hand is compared to a poker payout schedule. The players do not decide whether to play blackjack or poker. The patent to Palmer discloses a card game wherein a player places antes to play blackjack or stud poker. Then the cards are dealt. The player then decides whether to play blackjack or stud poker. If stud poker is played, the player is dealt one card and uses the dealer's two cards to form a combined five card poker hand. The UK patent to McCann discloses a video poker card game having a second game of high-low wherein a player may wager a full amount, double or nothing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3712

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl